



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/22/01)

Agency: Department of Labor and Industries

- ☒ Permanent Rule
☐ Emergency Rule
☐ Expedited Rule Making

(1) Date of adoption: January 27, 2004

(2) Purpose: The department is implementing a number of changes to improve the quality and timeliness of independent medical examinations. The purpose of the proposed rules is to ensure providers know the department's requirements to be an independent medical examiner, the expectations of providers in the treatment of injured workers during an examination and other standards providers are expected to meet as approved examiners. In addition, the rules clarify requirements of attending physicians or consultants when

(3) Citation of existing rules affected by this order:

Repealed: See attachment (3)

Amended: WAC 296-20-200 General information for impairment rating examinations by attending doctors, consultants or independent medical examination (IME) providers

(4) Statutory authority for adoption: RCW 51.32.055, 51.32.112, 51.32.114, 51.36.060 and 51.36.070

Other Authority: None

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 03-21-070 on October 14, 2003

Describe any changes other than editing from proposed to adopted version:

Changes were made in the following sections of the proposed WAC, based upon public input and further research by the department. For details about the specific changes and the reasons for the changes. See Attachment (5.1).

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

☐ (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

☐ (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:

☐ Yes ☒ No If Yes, explain:

(6) Effective date of rule:

Permanent Rules

☐ 31 days after filing

☒ Other (specify) 3/1/04

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

Emergency Rules

☐ Immediately

☐ Later (specify)

CODE REVISER USE ONLY

WSR # 04-04-029

Name (Type or Print)

Paul Trause

Signature

Title

Director

Date

January 27, 2004

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amende d	_____	Repeale d	_____
Federal rules or standards:	New	_____	Amende d	_____	Repeale d	_____
Recently enacted state statutes:	New	_____	Amende d	_____	Repeale d	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amende d	_____	Repeale d	_____
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The number of sections adopted in the agency's own initiative:

New	<u>24</u>	Amende d	<u>1</u>	Repeale d	<u>12</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>24</u>	Amende d	<u>1</u>	Repeale d	<u>12</u>
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The number of sections adopted using:

Negotiated rule making:	New	<u>24</u>	Amende d	<u>1</u>	Repeale d	<u>12</u>
Pilot rule making:	New	_____	Amende d	_____	Repeale d	_____
Other alternative rule making:	New	_____	Amende d	_____	Repeale d	_____

Chapter 296-20 and 296-23 WAC
Independent Medical Examinations (IMEs)
Rule-Making Order CR 103

Attachment (3)

(3) Citation of exiting rules affected by this order:

Repealed:

WAC 296-20-210	General rules
WAC 296-23-255	Independent medical examinations.
WAC 296-23-260	Examination reports
WAC 296-23-265	Who may perform independent medical examinations?
WAC 296-23-26501	How do doctors become approved examiners?
WAC 296-23-26502	Where can doctors get an application to become an approved examiner and other information about independent medical examinations?
WAC 296-23-26503	What factors does the medical director consider in approving, suspending or removing doctors from the approved examiners list?
WAC 296-23-26504	What happens if an examiner is suspended or removed from the approved examiner list by the medical director?
WAC 296-23-26505	Is there a fee schedule for independent medical examinations?
WAC 296-23-26506	Can a worker file a complaint about an independent medical examiner's conduct?
WAC 296-23-267	When may attending doctors perform impairment rating examinations?
WAC 296-23-270	Independent medical examinations two or more examiners

Attachment 5.1

296-20-2010

Amend section 296-20-2010(3) to include:

It is the responsibility of attending doctors and consultants to be familiar with the contents of the Medical Examiner Handbook section on rating examinations by attending doctors and consultants.

Amend section 296-20-2010(5) to include:

A complete impairment rating report must be sent to the department or self-insurer within fourteen calendar days of the examination date, or within fourteen calendar days of receipt of the results of any special tests or studies requested as a part of the examination. Job analyses (JAs) sent to the IME provider at the time of the impairment rating exam must be completed and submitted with the impairment rating report.

Amend section 296-20-2010 (1) to include:

A chiropractic impairment rating examination may be performed only when the worker has been clinically managed by a chiropractor.

296-20-2020

Deleted section 296-20-2020. Will add non-duplicative last paragraph to section 296-20-2010 (4)

Attending doctors and consultants performing impairment rating examinations must be available and willing to testify on behalf of the department or self-insurer, worker, or employer and accept the department fee schedule rate for testimony.

Other non-duplicative language included in section 296-20-2015.

296-23-302

Amend section 296-23-302 (definitions) to include:

Direct patient care. For the purpose of meeting the qualifications of an independent medical examination (IME) provider, direct patient care means face-to-face contact with the patient for the purpose of evaluation and management of care that includes, but is not limited to:

- . History taking and review of systems;
- . Physical examination;
- . Medical decision making;
- . Coordination of care with other providers and agencies. This does not include time spent in independent medical examinations.

Provider number. A unique number(s) assigned to a provider by the department of labor and industries. The number identifies the provider and is linked to a tax identification number that has been designated by the provider for payment purposes. A provider may have more than one provider number assigned by the department.

296-23-317

Amend section 296-23-317 (5) (a) to include:

Providers must conduct independent medical examinations only in a professional office suitable for medical, dental, podiatric, chiropractic or psychiatric examinations where the primary use of the examination site is for medical services; not residential, commercial, educational or retail in nature.

296-23-337

Amend section 296-23-337 (1) to:

- 1) Complaints about the provider;

Attachment 5.1

296-23-347

Amend to:

(2)(c) Let the worker know that the claim documents from the department or self-insurer have been reviewed;

Amend section 296-23-347 (3)(a) to :

(3)(a) Send a complete IME report to the department or self-insurer within fourteen calendar days of the examination date, or within fourteen calendar days of receipt of the results of any special tests or studies requested as a part of the Chapter 296-20 and 296-23 WAC

examination. Reports received after fourteen calendar days may be paid at a lower rate per the fee schedule. The report must meet the requirements of WAC296-23-382; and

Amend 296-23-347 3(b) to:

(3)(b) The claim file information received from the department or self-insurer should be disposed of in a manner used for similar health records containing private information after completion of the IME or any follow up test results are received. IME reports should be retained per WAC 296-20-02005.

296-23-377

Amend section 296-23-377 (2) to:

If, after review of the records, a history from the worker and the examination, the IME provider does not concur with the attending doctor's determination of MMI, an IME report must be completed. (See WAC 296-23-382.)

Added section 296-23-381 in table format:

296-23-381

What rating systems are used for determining an impairment rating conducted by the independent medical examination (IME) provider?

The following table provides guidance regarding the rating systems generally used. These rating systems or others adopted through department policies should be used to conduct an impairment rating.

Overview of Systems for Rating Impairment

Rating System:	RCW 51.32.080
Used for These Conditions:	Specified disabilities: Loss by amputation, total loss of vision or hearing

Form of the Rating: Supply the level of amputation

Rating System:	<i>AMA Guides to the Evaluation of Permanent Impairment</i>
Used for These Conditions:	Loss of function of extremities, partial loss of vision or hearing
Form of the Rating:	Determine the percentage of loss of function, as compared to amputation value listed in RCW 51.32.080

Rating System:	Category Rating System
Used for These Conditions:	Spine, neurologic system, mental health, respiratory, taste and smell, speech, skin, or disorders affecting other internal organs
Form of the Rating:	Select the category that most accurately indicates overall impairment

Rating System:	Total Bodily Impairment (TBI)
Used for These Conditions:	Impairments not addressed by any of the rating systems above, and claims prior to 1971

Form of the Rating: Supply the percentage of TBI

296-23-382

Amend section 296-23-382 (2) to:

(2) An impairment rating report may be requested as a component of an IME. Impairment rating reports are to be done as specified in WAC 296-20-200 and 296-20-2010 (2)(a) through (e) and 296-23-377.